IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 2496 OF 1992

1. Kautik Ananda Borse
   R/at & Post Munjwad,
   Tal Banglan, Dist. Nasik.

2. Prakash Pundlik Ahire
   R/at Munjwad, Tal. Baglan,
   Dist. Nasik.

3. Ashok Hari More,
   residing at Chaundhane, Tal. Baglan,
   Dist. Nasik.

4. Raundal Shantaram Gambhir,
   At & Post. Tarsali, Tal. Baglan,
   Dist. Nasik. .. Petitioners.

V/s

1. Mahatma Jyotiba Phule Education Society,
   Munjwad, Tal.Baglan, Dist. Nasik

2. Mr. Bhavrao Motiram Lokhande

3. Shri Pande,
   Education Officer (Secondary)
   Z.P. Nashik.

4. Dadaji Vishwanath Ahire

5. Bapu Waman Ahire.

6. Prabhakar Anand Jadhav

7. Suresh Baburao Suryawanshi

8. State of Maharashtra .. Respondents.

Mrs.D'Souza i/b Mr. M.P. Vashi for the petitioners.

Mr. Vanarase, AGP for respondent Nos. 3 and 8.

CORAM : D.G. DESHPANDE, J.

DATE : 10TH OCTOBER, 2006.

ORAL ORDER

. Heard Advocate for the petitioners and the learned AGP for respondent Nos. 3 and 8. Nobody is present for respondent NO.1- Educational Institution. The petitioners, who are 4 in numbers have filed this petition, directing respondent Nos. 1 to 3 to pay them graduate pay scale. The affidavit of the State in reply to this petition filed by Laxmanrao Sampatrao Jadhav, Superintendent (Class II) (Secondary), Zilla Parishad, Nasik is on record. In this petition the State has taken a stand to support the claim and contention of the petitioners. It is admitted by the State that the petitioners are working as Assistant Teachers in clear vacancies in the Secondary School conducted by the respondent No.1 with effect from 1/9/1987 to 9/7/1987. They are working on the basis of S.S.C. D.Ed. Pay Scale, though their qualifications are B.A. B.Ed. It is further stated in the affidavit that the Director of Education has given orders vide letter dated 9/7/1987 to the effect that the Teachers having this qualifications

but appointed with the pay scale of S.S.C. D.Ed. are placed/upgraded to the post of trained graduate scale as and when vacancies are arose but respondent No.1 did not follow the orders of the Department.

2. In this petition the State has also asserted that respondent No.1 Management appointed 4 excess Science Trained Graduate Teachers from open market instead of placing these petitioners in the trained graduate scale. Thus, neglecting the need of the work-load in science subject and has violated the provisions of circular of the Government dated 9/7/1987. Further in the affidavit he stated that respondent No.3, the Education Officer communicated the specific decisions to the respondent No..1 directing them to upgrade petitioners as per the provisions contained in Circular dated 9/7/1987. However, the respondent No.1 has not obeyed or complied the orders of the Education Officer.

3. It is, therefore, in this affidavit, it is admitted that the petitioners have a right to the graduate pay scale. There are orders of the Government Officer in that regard but respondent No.1 has not at all complied with those orders.

4. There is no affidavit filed by respondents except respondent No.3 in this petition. In view of this, the State and the Education Officer, who are controlling authorities and who are knowing the facts are supporting the petition.

5. It appears from the record of this petition that the order of the Division Bench dated 27th April, 2006 in Writ Petition No. 10541 of 2004 is annexed. In that petition the petitioner was working as Assistant Teaher in the graduate pay scale but even then his promotion in the graduate scale was not approved. He was paid the pay scale of S.S.C. D.Ed. The matter was therefore, referred to the Education Officer to decide the question of granting graduate pay scale and seniority etc.

6. The facts of the present case are totally different and since the Education Officer has justified the claim and the contention of the petitioners, the petition is required to be allowed. Hence, the order.

A. The petition is allowed in terms of prayer (a). The respondent Nos. 1 to 3 to pay the graduate pay

scale to the petitioners with all arrears as early as possible within a period of six months from today.

B. The petitioners to communicate this order to respondent Nos. 1 to 3 by R.P.A.D.

(D.G. DESHPANDE, J.)